UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

UNITED STATES OF AMERICA,	Magistrate Docket No.
Plaintiff,	Case No.
v.	COMPLAINT FOR VIOLATION OF: **Title 8 USC, Section 1326, Deported Alien Found in the United States**
Guillermo GARCIA-Pena aka Guillermo Garcia-Fonseca	(Felony)
Defendant,	

The undersigned complainant, being duly sworn, states:

On or about June 7, 2006, within the Southern District of California, DEFENDANT Guillermo GARCIA-Pena, aka Guillermo Garcia-Fonseca, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Senior Special Agent Dave Whitacre
U.S. Immigration & Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 16th DAY OF MAY 2008.

Cathy Ann Bencivengo
U.S. Magistrate Judge

PROBABLE CAUSE STATEMENT

On June 7, 2006, at approximately 1130 hours, Oceanside Police Officers T. Norton and J. McKean encountered the DEFENDANT (Guillermo GARCIA-Pena, also known as Guillermo Garcia-Fonseca) in Oceanside, California. Officer McKean personally knew the DEFENDANT due to prior contacts/arrests. During this encounter the DEFENDANT escaped from the officers during handcuffing.

On December 20, 2007, the COMPLAINANT conducted queries through the Immigration Central Index System (CIS) and the Deportable Alien Control System (DACS), which confirmed DEFENDANT to be a citizen of Mexico without legal documents to enter the United States. CIS and DACS system queries reveal that DEFENDANT was ordered deported/removed from the United States to Mexico by an Immigration Judge on or about March 15, 2005. Immigration service records indicate no evidence that DEFENDANT has applied for, or received permission from the Attorney General of the United States, or his designated successor, the Secretary of the Department of Homeland Security to legally re-enter the United States. Records reflect that DEFENDANT was last removed to Mexico on May 5, 2006.

The COMPLAINANT recently reviewed documents from the DEFENDANT's alien registration file confirming that the DEFENDANT had been ordered removed from the United States on March 15, 2005 and was last removed to Mexico on May 5, 2006. There is no evidence that the DEFENDANT requested or was granted permission to re-enter the United States subsequent to his May 5, 2006 removal to Mexico.

On December 20, 2007, the DEFENDANT was arrested on a state felony warrant and is currently being held in San Diego County jail.